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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/658,670

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Nancy Tulgren

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10/13/2006

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EXAMINER

VALENTI, ANDREA M

ART UNIT

PAPER NUMBER

3643

DATE MAILED: 10/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/658,670	Applicant(s) TULGREN ET AL.	
	Examiner Andrea M. Valenti	Art Unit 3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 August 2006.
 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 1-15 is/are rejected.
 7) ☐ Claim(s) _____ is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☒ The drawing(s) filed on 01 August 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-9, 13, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,992,348 to Harding in view of U.S. Patent Pub. No. US 2002/0100431 to Sherman et al.

Regarding Claim 1, Harding teaches a modular pet furniture comprising a frame structure comprising a plurality of vertical support members (Harding Fig.1 #70, 72, 74, 76), each vertical support member having an insertion end, a plurality of horizontal support members (Harding Fig. 1 #12, 14, 16, 18) each of the horizontal support members having an insertion end and a plurality of joint members (Harding Fig. 1 #46, 48, 50, 52) for interconnecting the vertical support members and the horizontal support members to form an array of support regions, the joint members accommodating the insertion ends of the vertical support members and horizontal support members therewithin; a pet support structure comprising a pet support surface (Harding Fig. 1 #28) and an attachment mechanism (Harding Fig. 3 #30, 32, 34, 36 and Figs. 5, 6, 8 #38, 44, 40, 42) operably attached thereto, wherein the attachment mechanism is removably attached to at least one of the vertical support members or the horizontal

Art Unit: 3643

support members for maintaining the pet support surface in a position with respect to the frame structure.

Harding is silent on at least one of the horizontal or vertical support members having a non-terminal aperture located between the joint members. However, Sherman teaches a non-terminal aperture in a horizontal member of modular pet furniture (Sherman Fig.1 and 3 the aperture that receives element #131). It would have been obvious to one of ordinary skill in the art to modify the teachings of Harding with the teachings of Sherman at the time of the invention to give the bed structure a den-like feel as taught by Sherman (Sherman paragraph [0015]) and to protect the animal from rain or sun exposure.

Regarding Claim 4, Harding as modified teaches the pet support surface is removably attached to the attachment means (Harding Fig. 4 is removably attached to Fig. 3 #38)

Regarding Claim 6, Harding as modified teaches the pet support surface is fabricated from fabricate or plastic (Harding Col. 4 line 31)

Regarding Claim 7, Harding as modified teaches the vertical support members and horizontal support members are secured to the joint members with by set-screw fittings (Harding Fig. 9 #100).

Regarding Claim 8, Harding as modified teaches the vertical support members, horizontal support members, the joint members are fabricated from plastic (Harding Col. 3 line 40).

Regarding Claim 9, Harding as modified teaches the attachment mechanism allows the pet support structure to be selectively positioned with respect to the frame structure (Harding Fig. 3 is selectively positioned within the horizontal members).

Regarding Claim 13, Harding as modified teaches attaching a bed structure to at least one horizontal support member (Harding #28) and fastening a pet support to the bed structure (Harding #38)

Regarding Claims 5 and 15, Harding as modified teaches a pet enclosure/platform mounted with respect to the pet support surface to at least partially enclose the pet support surface (Sherman Fig. 1 #117).

Regarding Claim 2, Harding as modified teaches a pet support frame structure and pet support structure, the attachment mechanism comprises a support frame having an outer perimeter, wherein the pet support surface is operably attached to the support frame; and a plurality of support legs extending from the support frame. Harding as modified by Sherman teaches a support frame (Harding Fig.1) and a pet support structure (Harding Fig. 4) and that the attachment mechanism comprises a support frame having an outer perimeter (Sherman Fig. 1 #113), wherein the pet support surface is operably attached to the support frame; and at least one support leg extending from the support frame (Sherman Fig. 1 #131).

Regarding Claim 3, Harding as modified teaches the non-terminal aperture receives the support legs (Sherman Fig. 1 apertures receive #113 and Fig.3).

Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,992,348 to Harding in view of U.S. Patent Pub. No. US 2002/0100431 to Sherman et al as applied to claim 1 above, and further in view of U.S. Patent No. 5,577,465 to Cook.

Regarding Claims 10 and 11, Harding as modified is silent on a plurality of pet support surfaces removably attached to an array of support regions. However, Cook teaches that the support members and joints can be connected in an array of many different configurations and plurality of regions (Cook Fig. 1 and abstract last sentence). It would have been obvious to one of ordinary skill in the art to further modify the teachings of Harding with the teachings of Cook at the time of the invention since the modification is merely the duplication of known members to create a multiple effect as taught by Cook to accommodate multiple animals at one time.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,992,348 to Harding in view of U.S. Patent Pub. No. US 2002/0100431 to Sherman et al as applied to claim 1 and 13 above, and further in view of U.S. Patent No. 5,709,164 to Batterton.

Regarding Claim 14, Harding as modified is silent on attaching fabric to at least one of the horizontal cross members to form a scratch pad. However, Batterton teaches a modular pet furniture with an attachment fabric to function as a scratch pad (Batterton Col.1 line 45). It would have been obvious to one of ordinary skill in the art to further modify the teachings of Harding with the teachings of Batterton at the time of the

invention to encourage the cat to scratch the play surface in order to discourage scratching of human furniture as taught by Batterton (Batterton abstract).

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,992,348 to Harding in view of U.S. Patent Pub. No. US 2002/0100431 to Sherman et al and U.S. Patent No. 5,577,465 to Cook as applied to claims 1 and 10 above, and further in view of U.S. Patent No. 5,709,164 to Batterton.

Regarding Claim 12, Harding as modified is silent on attaching fabric to form a scratch pad. However, Batterton teaches a modular pet furniture with an attachment fabric to function as a scratch pad (Batterton Col.1 line 45). It would have been obvious to one of ordinary skill in the art to further modify the teachings of Harding with the teachings of Batterton at the time of the invention to encourage the cat to scratch the play surface in order to discourage scratching of human furniture as taught by Batterton (Batterton abstract).

Response to Arguments

Applicant's arguments with respect to claims 1-15 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

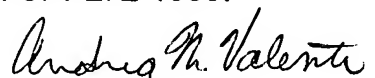
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrea M. Valenti whose telephone number is 571-272-6895. The examiner can normally be reached on 7:00am-5:30pm M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 571-272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3643

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Andrea M. Valenti
Primary Examiner
Art Unit 3643

11 October 2006